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ADRMOP, CONSENT, REFSET-TSH

U.S. District Court California Northern District (Oakland) CIVIL DOCKET FOR CASE #: 4:17-cv-05273-KAW

Sierra Club v. U.S. Department of Homeland Security et al Assigned to: Magistrate Judge Kandis A. Westmore

Referred to: Magistrate Judge Thomas S. Hixson (Settlement)

Cause: 05:552 Freedom of Information Act

Date Filed: 09/12/2017 Jury Demand: None

Nature of Suit: 895 Freedom of

Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

Sierra Club

represented by Andrea S Issod

Sierra Club Environmental Law Program 2101 Webster Street
Suite 1300
Oakland, CA 94612
415–977–5544
Email: andrea.issod@sierraclub.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Joshua Douglas Smith

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PRO HAC VICE
ATTORNEY TO BE NOTICED

Marta R. Darby

Sierra Club 2101 Webster St. Ste. 1300 Oakland, CA 94612 415–977–5779

Email: <u>marta.darby@sierraclub.org</u> *ATTORNEY TO BE NOTICED*

V.

Defendant

U.S. Department of Homeland Security

represented by **David Alejandro Pereda**

United States Attorney's Office Civil Division 1301 Clay Street Oakland, CA 94612 (510) 637–3701 Fax: (510) 637–3724 Email: david.pereda@usdoj.gov TERMINATED: 01/23/2018 LEAD ATTORNEY ATTORNEY TO BE NOTICED

Julie Bibb Davis

United States Attorney's Office 450 Golden Gate Ave San Francisco, CA 94102 415–436–7066

Case: 4:17-cv-05273-KAW As of: 02/07/2019 01:59 AM PST 2 of 7

Fax: 415-436-7169

Email: Julie.Davis@usdoj.gov

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Ann Marie Reding

United States Attorney's Office Northern District of California 450 Golden Gate Avenue P.O. Box 36055 San Francisco, CA 94102–3495 (415) 436–6813 Fax: (415) 436–6748 Email: annie.reding@usdoj.gov TERMINATED: 06/28/2018

Defendant

U.S. Customs and Border Protection

represented by David Alejandro Pereda

(See above for address)
TERMINATED: 01/23/2018
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Julie Bibb Davis

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Ann Marie Reding

(See above for address) *TERMINATED: 06/28/2018*

Date Filed	#	Docket Text
09/12/2017	<u>1</u>	COMPLAINT against U.S. Customs and Border Protection, U.S. Department of Homeland Security (Filing fee \$ 400, receipt number 0971–11708843.). Filed bySierra Club. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit, # 7 Exhibit, # 8 Exhibit, # 9 Civil Cover Sheet)(Darby, Marta) (Filed on 9/12/2017) (Entered: 09/12/2017)
09/12/2017	2	Proposed Summons. (Darby, Marta) (Filed on 9/12/2017) (Entered: 09/12/2017)
09/12/2017	3	Case assigned to Magistrate Judge Kandis A. Westmore.
		Counsel for plaintiff or the removing party is responsible for serving the Complaint or Notice of Removal, Summons and the assigned judge's standing orders and all other new case documents upon the opposing parties. For information, visit <i>E–Filing A New Civil Case</i> at http://cand.uscourts.gov/ecf/caseopening. Standing orders can be downloaded from the court's web page at www.cand.uscourts.gov/judges. Upon receipt, the summons will be issued and returned electronically. Counsel is required to send chambers a copy of the initiating documents pursuant to L.R. 5–1(e)(7). A scheduling order will be sent by Notice of Electronic Filing (NEF) within two business days. Consent/Declination due by 9/26/2017. (cv, COURT STAFF) (Filed on 9/12/2017) (Entered: 09/12/2017)
09/13/2017	4	Initial Case Management Scheduling Order with ADR Deadlines: Case Management Statement due by 12/5/2017. Initial Case Management Conference set for 12/12/2017 01:30 PM in Courtroom 4, 3rd Floor, Oakland. (jmlS, COURT STAFF) (Filed on 9/13/2017) (Entered: 09/13/2017)
09/13/2017		Electronic filing error. Only one Summons will be issued in each case. Please list all defendants on one summons, using additional pages if necessary, and re–file in its entirety. Re: 2 Proposed Summons filed by Sierra Club (jmlS, COURT STAFF) (Filed

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		on 9/13/2017) (Entered: 09/13/2017)
09/13/2017	<u>5</u>	Proposed Summons. (Darby, Marta) (Filed on 9/13/2017) (Entered: 09/13/2017)
09/13/2017	<u>6</u>	Summons Issued as to U.S. Customs and Border Protection, U.S. Department of Homeland Security, U.S. Attorney and U.S. Attorney General (jmlS, COURT STAFF) (Filed on 9/13/2017) (Entered: 09/13/2017)
09/15/2017	7	CERTIFICATE OF SERVICE by Sierra Club (Darby, Marta) (Filed on 9/15/2017) (Entered: 09/15/2017)
09/20/2017	8	CONSENT/DECLINATION to Proceed Before a US Magistrate Judge by Sierra Club (Darby, Marta) (Filed on 9/20/2017) (Entered: 09/20/2017)
10/18/2017	9	ANSWER to Complaint by U.S. Department of Homeland Security. (Pereda, David) (Filed on 10/18/2017) (Entered: 10/18/2017)
10/19/2017	<u>10</u>	CONSENT/DECLINATION to Proceed Before a US Magistrate Judge by U.S. Department of Homeland Security (Pereda, David) (Filed on 10/19/2017) (Entered: 10/19/2017)
11/01/2017	<u>11</u>	Amended ANSWER to Complaint by U.S. Department of Homeland Security. (Pereda, David) (Filed on 11/1/2017) (Entered: 11/01/2017)
11/01/2017	<u>12</u>	NOTICE of Appearance by Andrea S Issod (Issod, Andrea) (Filed on 11/1/2017) (Entered: 11/01/2017)
11/09/2017	<u>13</u>	SUMMONS Returned Executed (FOIA) by Sierra Club. All Defendants. (Darby, Marta) (Filed on 11/9/2017) (Entered: 11/09/2017)
11/20/2017	<u>14</u>	NOTICE of need for ADR Phone Conference (ADR L.R. 3–5 d) (Pereda, David) (Filed on 11/20/2017) (Entered: 11/20/2017)
11/20/2017	<u>15</u>	ADR Certification (ADR L.R. 3–5 b) of discussion of ADR options (Darby, Marta) (Filed on 11/20/2017) (Entered: 11/20/2017)
11/21/2017	<u>16</u>	ADR Clerk's Notice Setting ADR Phone Conference on Thursday, December 7, 2017, at 2:00 PM Pacific time. Please note that you must be logged into an ECF account of counsel of record in order to view this document. (af, COURT STAFF) (Filed on 11/21/2017) (Entered: 11/21/2017)
12/04/2017	<u>17</u>	STIPULATION WITH PROPOSED ORDER filed by Sierra Club. (Attachments: # 1 Attachment A)(Darby, Marta) (Filed on 12/4/2017) (Entered: 12/04/2017)
12/05/2017	<u>18</u>	STIPULATION AND ORDER FOR LEAVE TO FILE FIRST AMENDED COMPLAINT re 17. STIPULATION WITH PROPOSED ORDER filed by Sierra Club. Signed by Magistrate Judge Kandis A. Westmore on 12/5/17. (sisS, COURT STAFF) (Filed on 12/5/2017) (Entered: 12/05/2017)
12/05/2017	<u>19</u>	JOINT CASE MANAGEMENT STATEMENT filed by U.S. Department of Homeland Security, U.S. Customs and Border Patrol and Sierra Club. (Pereda, David) (Filed on 12/5/2017) Modified on 12/6/2017 (jmlS, COURT STAFF). (Entered: 12/05/2017)
12/07/2017	20	ADR Remark: ADR Phone Conference held on 12/7/2017 by Tamara Lange. (af, COURT STAFF) (Filed on 12/7/2017) (This is a text-only entry generated by the court. There is no document associated with this entry.) (Entered: 12/07/2017)
12/08/2017	21	CLERK'S NOTICE – Case Management Conference will be held in Courtroom 5 on the 2nd floor.
		(This is a text only docket entry, there is no document associated with this notice.
		(sisS, COURT STAFF) (Filed on 12/8/2017) (Entered: 12/08/2017)
12/12/2017	<u>22</u>	AMENDED COMPLAINT FOR DECLARTORY AND INJUNCTIVE RELIEF against All Defendants. Filed by Sierra Club. (Attachments: # 1 Exhibit Exhibit A, # 2 Exhibit Exhibit B, # 3 Exhibit Exhibit C, # 4 Exhibit Exhibit D, # 5 Exhibit Exhibit E, # 6 Exhibit Exhibit F, # 7 Exhibit Exhibit G, # 8 Exhibit Exhibit H)(Darby, Marta) (Filed

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		on 12/12/2017) (Entered: 12/12/2017)
12/12/2017	23	Minute Entry for proceedings held before Magistrate Judge Kandis A. Westmore: Initial Case Management Conference held on 12/12/2017. Matter referred to magistrate judge for settlement. Case Management Statement due by 4/17/2018. Further Case Management Conference set for 4/24/2018 01:30 PM in Courtroom 4, 3rd Floor, Oakland.FTR Time: 1:49–1:58. (sisS, COURT STAFF) (Date Filed: 12/12/2017) (Entered: 12/13/2017)
12/13/2017		CASE REFERRED to Magistrate Judge Maria–Elena James for Settlement (ahm, COURT STAFF) (Filed on 12/13/2017) (Entered: 12/13/2017)
12/15/2017	<u>24</u>	Order Setting Settlement Conference before Magistrate Judge: Settlement Conference set for 4/3/2018 at 10:00 a.m. Signed by Magistrate Judge Maria–Elena James on 12/15/2017. (rmm2S, COURT STAFF) (Filed on 12/15/2017) (Entered: 12/15/2017)
01/11/2018	<u>25</u>	ANSWER to Amended Complaint by U.S. Department of Homeland Security. (Pereda, David) (Filed on 1/11/2018) (Entered: 01/11/2018)
01/23/2018	<u>26</u>	NOTICE of Substitution of Counsel by Ann Marie Reding (Reding, Ann) (Filed on 1/23/2018) (Entered: 01/23/2018)
03/27/2018	<u>27</u>	STIPULATION WITH PROPOSED ORDER re <u>23</u> Case Management Conference – Initial,, Set Deadlines/Hearings, <u>24</u> Order Setting Settlement Conference filed by U.S. Customs and Border Protection, U.S. Department of Homeland Security and Sierra Club. (Reding, Ann) (Filed on 3/27/2018) Modified on 3/28/2018 (jmlS, COURT STAFF). (Entered: 03/27/2018)
03/29/2018	28	STIPULATION AND ORDER re 27. STIPULATION WITH PROPOSED ORDER re 23 Case Management Conference – Initial, Set Deadlines/Hearings, 24 Order Setting Settlement Conference filed by U.S. Department of Homeland Security, U.S. Customs and Border Protection, Sierra Club. Settlement conference is vacated. Case Management Statement due by 7/10/2018. Further Case Management Conference set for 7/17/2018 01:30 PM. Signed by Magistrate Judge Kandis A. Westmore on 3/29/18. (sisS, COURT STAFF) (Filed on 3/29/2018) (Entered: 03/29/2018)
06/28/2018	<u>29</u>	NOTICE of Substitution of Counsel by Julie Bibb Davis (Davis, Julie) (Filed on 6/28/2018) (Entered: 06/28/2018)
07/10/2018	<u>30</u>	JOINT CASE MANAGEMENT STATEMENT filed by Sierra Club, U.S. Department of Homeland Security and U.S. Customs and Border Protection. (Darby, Marta) (Filed on 7/10/2018) Modified on 7/10/2018 (jmlS, COURT STAFF). (Entered: 07/10/2018)
07/10/2018	<u>31</u>	STIPULATION WITH PROPOSED ORDER re <u>28</u> Stipulation and Order,,, Set Deadlines/Hearings,,, Terminate Hearings,, filed by Sierra Club, U.S. Department of Homeland Security and U.S. Customs and Border Protection. (Darby, Marta) (Filed on 7/10/2018) Modified on 7/10/2018 (jmlS, COURT STAFF). (Entered: 07/10/2018)
07/16/2018	<u>32</u>	STIPULATION AND ORDER re 31. STIPULATION WITH PROPOSED ORDER re 28 Stipulation and Order. Set Deadlines/Hearings, Terminate Hearings. filed by U.S. Department of Homeland Security, U.S. Customs and Border Protection, Sierra Club. Case Management Statement due by 8/14/2018. Further Case Management Conference set for 8/21/2018 01:30 PM in Oakland, Courtroom 4, 3rd Floor. Signed by Magistrate Judge Kandis A. Westmore on 7/16/18. (sisS, COURT STAFF) (Filed on 7/16/2018) (Entered: 07/16/2018)
08/07/2018	33	MOTION for leave to appear in Pro Hac Vice (Filing fee \$ 310, receipt number 0971–12574919.) filed by Sierra Club. (Attachments: # 1 Joshua Smith – Certificate of Good Standing Oregon State Bar)(Smith, Joshua) (Filed on 8/7/2018) (Entered: 08/07/2018)
08/08/2018	<u>34</u>	ORDER by Magistrate Judge Kandis A. Westmore granting <u>33</u> Motion for Pro Hac Vice for Joshua Smith. (sisS, COURT STAFF) (Filed on 8/8/2018) (Entered: 08/08/2018)

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08/13/2018	<u>35</u>	STIPULATION WITH PROPOSED ORDER re <u>32</u> Stipulation and Order,,, Set Deadlines/Hearings,, filed by Sierra Club, U.S. Department of Homeland Security and U.S. Customs and Border Patrol. (Darby, Marta) (Filed on 8/13/2018) Modified on 8/14/2018 (jmlS, COURT STAFF). (Entered: 08/13/2018)
08/14/2018	<u>36</u>	STIPULATION AND ORDER re <u>35</u> . STIPULATION WITH PROPOSED ORDER re <u>32</u> Stipulation and Order, Set Deadlines/Hearings filed by U.S. Department of Homeland Security, U.S. Customs and Border Protection, Sierra Club. Case Management Statement due by 10/9/2018. Further Case Management Conference set for 10/16/2018 01:30 PM in Oakland, Courtroom 4, 3rd Floor. Signed by Magistrate Judge Kandis A. Westmore on 8/14/18. (sisS, COURT STAFF) (Filed on 8/14/2018) (Entered: 08/14/2018)
09/06/2018	<u>37</u>	CASE REFERRED to Magistrate Judge Thomas S. Hixson for Settlement. (tnS, COURT STAFF) (Filed on 9/6/2018) (Entered: 09/06/2018)
10/09/2018	<u>38</u>	JOINT CASE MANAGEMENT STATEMENT filed by Sierra Club, U.S. Department of Homeland Security and U.S. Customs and Border Protection. (Darby, Marta) (Filed on 10/9/2018) Modified on 10/10/2018 (jmlS, COURT STAFF). (Entered: 10/09/2018)
10/16/2018	<u>39</u>	(a) PDF with attached Audio File. Court Date & Time [10/16/2018 1:47:28 PM]. File Size [6064 KB]. Run Time [00:12:38]. (courtspeak). (Entered: 10/16/2018)
10/16/2018	<u>40</u>	Minute Entry for proceedings held before Magistrate Judge Kandis A. Westmore: Further Case Management Conference held on 10/16/2018. Case Management Statement due by 1/22/2019. Further Case Management Conference set for 1/29/2019 01:30 PM in Oakland, Courtroom 4, 3rd Floor.FTR Time: 1:47–2:00. (sisS, COURT STAFF) (Date Filed: 10/16/2018) (Entered: 10/17/2018)
10/23/2018	41	CLERK'S NOTICE Scheduling a Pre–Telephonic Settlement Conference call:
		This case has been referred for a Settlement Conference before Magistrate Judge Thomas S. Hixson. A Telephonic conference is scheduled for Tuesday, October 30, 2018 at 2:30 p.m., before Magistrate Judge Thomas S. Hixson. Counsel shall be prepared to discuss the current status of this case, as well as schedule a Settlement Conference date.
		Counsel shall call into the following phone number: 1–888–684–8852/Passcode: 2925506
		If any questions please contact the Courtroom Deputy, Rose Maher, by phone: 415–522–4708 or by email: Rose_Maher@cand.uscourts.gov
		(This is a text—only entry generated by the court. There is no document associated with this entry.) (rmm2S, COURT STAFF) (Filed on 10/23/2018) (Entered: 10/23/2018)
10/23/2018		Set/Reset Hearing re 41 Clerk's Notice: Telephone Conference set for 10/30/2018 02:30 PM before Magistrate Judge Thomas S. Hixson. (rmm2S, COURT STAFF) (Filed on 10/23/2018) (Entered: 10/23/2018)
10/30/2018	42	Minute Entry for proceedings held before Magistrate Judge Thomas S. Hixson: Pre–Telephonic Settlement Conference call held on 10/30/2018.
		FTR Time: Not Reported Total Time: 16 minutes
		Plaintiff's Attorney: Marta Darby, Esq., appearing by telephone.
		Defendant's Attorney: Julie Bibb Davis, AUSA, appearing by telephone
		Proceedings: Pre-Telephonic Settlement Conference called held. Final telephonic call scheduled for 12/4/2018 at 1:30 p.m. Counsel shall call the following phone number: 1–888–684–8852/Passcode: 2925506. Settlement Conference scheduled for 1/11/2019 at 10:00 a.m., in Courtroom A, 15th Floor, before Magistrate Judge Thomas S. Hixson. Settlement Conference

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		Statements shall be lodged, with Chambers, seven (7) days prior to the Settlement Conference. Court shall issue a Settlement Conference Order shortly. (This is a text-only entry generated by the court. There is no document associated
		with this entry.) (rmm2S, COURT STAFF) (Date Filed: 10/30/2018) (Entered: 10/30/2018)
10/30/2018		Set/Reset Hearing re 42 Telephone Conference: Pre–Telephone Settlement Conference call set for: 12/4/2018 at 1:30 p.m., in San Francisco, Courtroom A, 15th Floor before Magistrate Judge Thomas S. Hixson. (rmm2S, COURT STAFF) (Filed on 10/30/2018) Modified on 10/30/2018 (rmm2S, COURT STAFF). (Entered: 10/30/2018)
10/30/2018		Set/Reset Hearing re 42 Telephone Conference: Final Pre–Telephone Settlement Conference call set for 12/4/2018 01:30 PM before Magistrate Judge Thomas S. Hixson. (rmm2S, COURT STAFF) (Filed on 10/30/2018) (Entered: 10/30/2018)
10/30/2018	<u>43</u>	Order Setting Settlement Conference before Magistrate Judge: Settlement Conference set for 1/11/2019 10:00 AM in San Francisco, Courtroom A, 15th Floor. Signed by Judge Magistrate Judge Thomas S. Hixson on 10/30/2018. (Attachments: # 1 Standing Order)(rmm2S, COURT STAFF) (Filed on 10/30/2018) (Entered: 10/30/2018)
12/04/2018	44	Minute Entry for proceedings held before Magistrate Judge Thomas S. Hixson: Final Pre–Telephone Settlement Conference call held on 12/4/2018.
		FTR Time: Not Reported Total Time: 24 minutes
		Plaintiff Attorney: Marta R. Darby, Esq.
		Defendant Attorney: Julie Bibb Davis, AUSA.
		Proceedings: Pre-Settlement Telephone Conference Call held.
		Plaintiff's Counsel shall send its Proposal and Settlement Demand to Defendant's Counsel by 12/11/2018.
		Defendant's Counsel shall respond to Plaintiff's Proposal and Settlement Demand by 12/18/2018. Defendant shall also send its Proposed Schedule for all productions and its Settlement Demand to Plaintiff's Counsel by 12/18/2018.
		Both sides, in their Settlement Conference Statements shall set out a concrete plan for resolving the case, which would also include all the redactions.
		All documents shall be copied and sent by email to the Courtroom Deputy, Rose Maher, at the following email address: Rose_Maher@cand.uscourts.gov
		(This is a text-only entry generated by the court. There is no document associated with this entry.) (rmm2S, COURT STAFF) (Date Filed: 12/4/2018) (Entered: 12/04/2018)
12/30/2018	<u>45</u>	ADMINISTRATIVE MOTION TO CONTINUE <i>DUE TO PARTIAL GOVERNMENT SHUTDOWN</i> filed by U.S. Customs and Border Protection, U.S. Department of Homeland Security. Responses due by 1/3/2019. (Attachments: # 1 Declaration)(Davis, Julie) (Filed on 12/30/2018) (Entered: 12/30/2018)
12/31/2018	<u>46</u>	OPPOSITION/RESPONSE (re <u>45</u> ADMINISTRATIVE MOTION TO CONTINUE <i>DUE TO PARTIAL GOVERNMENT SHUTDOWN</i>) filed by Sierra Club. (Attachments: # <u>1</u> Proposed Order)(Darby, Marta) (Filed on 12/31/2018) (Entered: 12/31/2018)
01/02/2019		Electronic filing error. Please file proposed order in accordance with L.R. 5–1(g) Re: 45 ADMINISTRATIVE MOTION TO CONTINUE <i>DUE TO PARTIAL GOVERNMENT SHUTDOWN</i> filed by U.S. Department of Homeland Security, U.S. Customs and Border Protection (dtmS, COURT STAFF) (Filed on 1/2/2019) (Entered: 01/02/2019)

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01/03/2019	<u>47</u>	Proposed Order re <u>45</u> ADMINISTRATIVE MOTION TO CONTINUE <i>DUE TO PARTIAL GOVERNMENT SHUTDOWN</i> by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Davis, Julie) (Filed on 1/3/2019) (Entered: 01/03/2019)
01/03/2019	<u>48</u>	Proposed Order re <u>45</u> ADMINISTRATIVE MOTION TO CONTINUE <i>DUE TO PARTIAL GOVERNMENT SHUTDOWN</i> by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Davis, Julie) (Filed on 1/3/2019) (Entered: 01/03/2019)
01/03/2019	<u>49</u>	ORDER by Magistrate Judge Thomas S. Hixson granting <u>45</u> Administrative Motion Continue Settlement Conference. (rmm2S, COURT STAFF) (Filed on 1/3/2019) (Entered: 01/03/2019)
01/03/2019	<u>50</u>	ORDER granting <u>45</u> Administrative Motion to Continue Case Management Conference. Signed by Judge Kandis A. Westmore on 1/3/19. (dtmS, COURT STAFF) (Filed on 1/3/2019) (Entered: 01/04/2019)
01/30/2019	<u>51</u>	STATUS REPORT by U.S. Customs and Border Protection. (Davis, Julie) (Filed on 1/30/2019) (Entered: 01/30/2019)
02/01/2019	<u>52</u>	STATUS REPORT <i>AND REQUEST TO SET A CASE MANAGEMENT CONFERENCE</i> by Sierra Club. (Darby, Marta) (Filed on 2/1/2019) (Entered: 02/01/2019)
02/04/2019	53	CLERK'S NOTICE SETTING FURTHER CASE MANAGEMENT CONFERENCE. Joint Case Management Statement due by 2/19/2019. Further Case Management Conference set for 2/26/2018 at 01:30 PM before Magistrate Judge Kandis A. Westmore. (This is a text—only entry generated by the court. There is no document associated with this entry.) (kcS, COURT STAFF) (Filed on 2/4/2019) (Entered: 02/04/2019)